

Exhibit A

DANTE MCKAY
UNITED STATES vs STATE OF GEORGIA

March 09, 2023

1

1 THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION

4 UNITED STATES OF)
5 AMERICA,)
6 Plaintiff,)
7 vs.) CASE NO. 1:16-CV-03088-ELR
8 STATE OF GEORGIA,)
9 Defendant.)

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11
12
13
14 VIDEOTAPED DEPOSITION OF DANTE MCKAY

15 ATLANTA, GEORGIA

16 THURSDAY, MARCH 9, 2023

17
18 (Reported Remotely)

19
20
21
22
23 REPORTED BY: TANYA L. VERHOVEN-PAGE,
24 CCR-B-1790

25 FILE NO. J9414077

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1 that I'm referring to the community service board?

2 A Yes.

3 (Previously marked Plaintiff's
4 Exhibit No. 965 was identified for the
5 record.)

6 BY MS. CHEVRIER:

7 Q Excellent. I'd like to show you what was
8 previously marked as Plaintiff's Exhibit 965.

9 A Okay.

10 Q I'll give my colleague a minute to bring
11 it up.

12 Are you able to see this document?

13 A Yes.

14 Q And you should have the opportunity to
15 scroll and manipulate through it. This is the
16 Deposition Notice filed with the Court that states
17 that the United States served a 30(b)(6) deposition
18 notice on March 1st, 2023 for testimony related to
19 the items included in Attachment A, correct?

20 A Are you asking me?

21 Q Yes. I'm asking you to confirm that
22 that's the document that's up.

23 A Oh, I don't know. This is my first time
24 seeing this document.

25 Q Can you confirm that on the top it says

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1 Notice of 30(b)(6) Deposition?

2 A Yes, I see that.

3 Q Okay. And so you have not seen this
4 notice before; is that correct?

5 A Correct.

6 Q Is it your understanding that you are
7 present today to provide testimony in response to the
8 topics listed in attachment A, specifically Topics 18
9 and 19? And I can give you a moment to scroll to
10 that. It's at the end of the document.

11 A Okay. I've reviewed 18 and 19. Yes,
12 I -- that aligns to my understanding of my deposition
13 today.

14 Q Excellent. And what is the basis of your
15 knowledge for these topic areas?

16 A I direct the Office of Children, Young
17 Adults and Families within the Behavioral Health
18 Division at DBHDD, and Apex is a program that we
19 fund, evaluate and monitor.

20 Q And you've already answered this, but
21 again for the record, can you state specifically your
22 title at the State of Georgia?

23 A I direct the Office of Children, Young
24 Adults and Families.

25 Q So is your position the director?

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1 A Yes.

2 Q And what are your job responsibilities in
3 this role?

4 A To lead the office, to manage the staff
5 at the office, to be liaison between the office and
6 executive leadership and with community stakeholders,
7 in a nutshell. So plan, manage, monitor and fund
8 behavioral health-related programming.

9 Q How long have you held this role?

10 A Since February 16th, 2016.

11 Q And who do you report to?

12 A Currently, I report to Adrienne Johnson,
13 who is the interim director of the behavioral health
14 division.

15 Q And who did you report to previously?

16 A To Monica Johnson, who was director of
17 the behavioral health division.

18 Q And who reports to you currently?

19 A Are you asking for names or titles?

20 Q If you could provide names and titles
21 starting with direct reports, that would be great.

22 A Okay. Dr. Stephanie -- gosh -- Pearson.

23 Dr. Stephanie Pearson, who is my clinical director.

24 She's a direct report. Dr. Kristi Burk is a program
25 director who is a direct report. Layla Fitzgerald is

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1 Ashuanni -- I'm blanking on her name, she's one of
2 our new hires. Ashuanni Straw is a program
3 coordinator that reports to Layla Fitzgerald.

4 Nobody reports to Dr. Flowers. Nobody
5 reports to Thandiwe Harris, and Dr. Burk has Brittany
6 Estrella, who is a program coordinator reporting to
7 her.

8 Q Thank you. How does your current role
9 relate to the questions you are here to provide
10 testimony about today?

11 A Well, as the office director, I approved
12 this program and receive reports on performance to
13 this program and had a role in procurement that led
14 to the providers selected for this program. And --

15 Q Did you receive -- sorry, go ahead. I
16 didn't mean to cut you off.

17 A And I have been involved in -- as part of
18 the procurement processes, these are -- I don't
19 remember which because we had a few different
20 procurements as it relates to Apex, but typically
21 there is either a -- a Q&A session -- there's a
22 different title, but essentially it's a Q&A session
23 that interested vendors participate in. And
24 sometimes that can be in-person, slash, virtual or it
25 can be through written Q&A. And I would have had

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1 some role in those.

2 Q Thank you. Did you receive any
3 information from anyone other than counsel that you
4 will be relying on to respond to these -- to
5 questions about these topics today?

6 A No.

7 Q What is your highest level of education?

8 A I have a law degree and I have a Master's
9 in Public Administration.

10 Q And where is your law degree from?

11 A Southern University Law Center in Baton
12 Rouge, Louisiana.

13 Q And what's the date of your JD?

14 A That would have been May 2007 --

15 Q And where is your Master's in Public
16 Administration from?

17 A The City University of New York Baruch
18 College.

19 Q And what is the date that you received
20 that degree?

21 A I think June of 2011. Oh --

22 Q And how does your -- sorry.

23 A -- excuse me. July 2011.

24 Q How does your education background relate
25 to your current role?

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1 and that payor that covered that life.

2 If they're -- if the payor does
3 not -- is not -- does not approve
4 school-based services, having a
5 professional there in case of a crisis to
6 respond and stabilize also increases
7 access. But, in those scenarios,
8 long-term services, of course, would not
9 be available because it was not a part of
10 the -- I guess, the benefit plan of a
11 particular payor.

12 BY MS. CHEVRIER:

13 Q What is the Apex program?

14 A Apex is a school-based mental health
15 program.

16 Q When was it created?

17 A Sometime in 2015. It predates my tenure
18 at the department.

19 Q And what is the purpose of the Apex
20 program?

21 A To increase access to services for
22 students that are uninsured, have instance of
23 Medicaid or Managed Care Medicaid, to essentially
24 eliminate barriers by being in place. One of the
25 goals is early detection. So by being in place, as

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1 those needs arise, the provider is there to offer
2 services.

3 And to create relationships between local
4 community providers. The department, DBHDD, does not
5 provide direct services to children, 100 percent of
6 the services are contracted out. So to encourage and
7 nurture and support relationships between those
8 approved community providers and schools and school
9 districts.

10 Q I think you've addressed this question
11 already, but I'm going to give you the opportunity to
12 answer it in case there's anything you want to add.

13 What needs does the Apex program address?
14 Oh, I can no longer hear you.

15 THE REPORTER: I can't hear him.

16 THE WITNESS: Can you hear me?

17 MS. CHEVRIER: Oh, yes.

18 THE WITNESS: Okay. Something
19 happened with my Bluetooth. Can you hear
20 me?

21 MS. CHEVRIER: Yes.

22 THE WITNESS: Okay. Can you
23 restate the question? I'm sorry.

24 BY MS. CHEVRIER:

25 Q Sure. I know that you've already touched

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1 on this, but I want to make sure you have the
2 opportunity to answer this question specifically.

3 What needs does the Apex program -- what
4 needs does the Apex program intend to address?

5 A Generally speaking, mental health
6 services and support for students. So we think
7 about -- we think about Apex as a three-tiered model,
8 Tier 1 is universal prevention, Tier 2 is like a
9 middle tier. It's kind of an at-risk tier. Students
10 who may be in that tier may not have a diagnosis.
11 And then Tier 3, which is the identified tier, which
12 students have a diagnosis and require some ongoing
13 support, like individual counseling or family
14 counseling or group counseling.

15 And then also included in Tier 3 would be
16 crisis services. So if a child goes into crisis
17 within a school setting or if an embedded provider
18 is -- may not be in that school but may be across the
19 street at another school, our funds allow them to
20 respond and stabilize that crisis, regardless of
21 payor. But if their provider is not approved by the
22 insurance company, then they would need to refer that
23 student to their medical home. So their pediatrician
24 or where they receive outpatient services.

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1 BY MS. CHEVRIER:

2 Q Is DBHDD the state agency with primary
3 responsibility over the Apex program?

4 MS. JOHNSON: Object to form.

5 THE WITNESS: Yes.

6 MS. JOHNSON: You can answer.

7 THE WITNESS: Yes.

8 BY MS. CHEVRIER:

9 Q How does the Apex program work? If you
10 could describe how these services and supports get in
11 schools.

12 A The department released procurement,
13 either a request for proposal or a statement of need,
14 to DBHDD-approved providers. Those providers
15 submitted proposals. There were teams of individuals
16 that reviewed the core of those proposals based upon
17 some criteria and funding that was available. As a
18 part of that requirement, provider agencies were
19 required to include letters of support from school,
20 district superintendent. And the plan for schools
21 that they were asking for funds for, against a formal
22 procurement process is -- and in scoring, is how the
23 providers that are part of Apex were selected.

24 And the school district as the provider
25 determined the school that the provider agencies

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1 would embed their employees. Those employees are,
2 you know, available in the schools some period of
3 time. It just depends on the district. They could
4 be there every day, all day, they could be there one
5 day per week. It just varies across the state.

6 And during that time they are seeing
7 students individually or -- you know, the same format
8 they would have if they were in an outpatient clinic.
9 They would -- some of them have space, for instance,
10 for providers to have a dedicated space in schools to
11 see students. But not all do, but most do.

12 So they'll have a case load of students
13 that are referred by, most times, a counselor or a
14 social worker and they see them for some period of
15 time, until goals are met or if it's ongoing. I
16 mean, it looks different.

17 Q When you first started answering this
18 question, you said the department releases
19 procurement. By department, did you mean DBHDD?

20 A Yes, correct.

21 Q And what are the types of services and
22 supports that are provided through the Apex program?

23 A Behavioral health assessment. I don't
24 know them all. I mean, just generally speaking,
25 behavioral health assessment, individual counseling,

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1 group counseling, family counseling, community
2 support, which is a skill-building component, general
3 kind of mental health wellness and promotion. So
4 being available for in-service or student assembly.
5 Those sorts of things.

6 Q Is it fair to say that the Apex program
7 involves a partnership between a community service
8 board and a school?

9 A It's broader than that. So embedded in
10 the question, yes, but Apex also includes non-CSB
11 providers.

12 Q What is a community service board?

13 A My understanding is it's an
14 instrumentality of the state. The --

15 Q I'm sorry. Go ahead.

16 A I'm sorry. They are quasi governmental
17 behavioral health providers for the department. They
18 are our safety net. Our Tier 1 providers, which make
19 up our safety net.

20 Q And what are the other non-CSB providers
21 with which Apex programs partner?

22 A I don't know them all offhand, but I
23 think there are maybe ten or so, all around the
24 state.

25 Q Do you have any examples?

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1 A Sure. So Care Partners would be one.
2 Family Ties, CHRIS 180, Georgia Hope, Vashti, Tanner
3 Medical -- I think -- Academy, or Family Empowerment,
4 Social Empowerment.

5 I wasn't counting. I don't know if
6 anybody was.

7 Q Sounds --

8 A Okay.

9 Q And those are programs that the Apex
10 program sometimes partners with depending regionally;
11 is that fair to say?

12 A The providers would have also
13 submitted -- responded to the procurement, whether it
14 was a statement of need or RFQ, submit a proposal,
15 met all the requirements of the procurement and
16 scored well and were selected. But once they were
17 selected to be an Apex provider, we continue to work
18 with them as Apex providers, you know, as long as
19 funding is available within the budget.

20 Q Where are Apex services provided?

21 A All over the state. I -- specifically,
22 I -- that's my best answer. All over the state. So
23 not every district or school has an Apex. Last
24 count, maybe a little over 700 of the 2,200 schools
25 within the state.

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1 A Possibly, if the behavior was mental
2 health in nature.

3 Q If Apex services were available for all
4 students exhibiting severe behavioral issues, and we
5 can assume that at least some of those severe
6 behavioral issues had bases in mental health, would
7 you expect that those severe behavioral issues could
8 decrease with Apex services?

9 MS. JOHNSON: Same objection.

10 THE WITNESS: It is possible.

11 MS. CHEVRIER: I'd like the court
12 reporter -- I'd like to show what is
13 being marked as Plaintiff's Exhibit 978.

14 (Plaintiff's (McKay) Deposition
15 Exhibit No. 978 was marked for the
16 record.)

17 BY MS. CHEVRIER:

18 Q We'll give my colleague a moment to bring
19 it up. This is a screen capture of a website titled
20 Apex 3.0 Frequently Asked Questions, correct?

21 A Yes.

22 Q And I'll indicate for the record that,
23 because it's a screen capture, the document shows the
24 time stamp of the capture at the bottom of the page
25 and if information is cut off by this text, the text

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1 BY MS. CHEVRIER:

2 Q So does this answer accurately reflect
3 the philosophy of DBHDD?

4 MS. JOHNSON: Object to form.

5 THE WITNESS: Yes.

6 BY MS. CHEVRIER:

7 Q Why was it determined that, quote, Apex
8 services cannot be provided in GNETS standalone
9 facilities?

10 MS. JOHNSON: Object to form.

11 THE WITNESS: Because it was our
12 understanding that standalone facilities,
13 the model would not comport. The
14 three-tier model would not comport to a
15 standalone facility.

16 BY MS. CHEVRIER:

17 Q Who was involved in the decision that
18 Apex services cannot be provided in GNETS standalone
19 facilities?

20 MS. JOHNSON: Object to form.

21 THE WITNESS: I would have
22 inherited the decision and continued it.

23 BY MS. CHEVRIER:

24 Q And what is -- you mentioned the three
25 tier. What is the rationale for this policy, or